

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Rios	Team: Team # 8	CCRB Case #: 200001764	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/21/2000 7:10 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 9/21/2001	EO SOL 9/21/2001	
Date/Time CV Reported Wed, 03/22/2000 9:17 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/22/2000 9:17 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Brian McGinn	00000	910284	B/S-END
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 John Beale	05583	909941	B/S-END
2. SGT Michael Balsamo	01932	889535	B/S-END
3. DT3 Jan Hanczyk	01306	876452	B/S-END
4. DT3 Theodore Wallace	05920	898740	B/S-END
5. DT3 Eugene Kenny	01195	899312	B/S-END

Officer(s)	Allegation	Investigator Recommendation
A.LT Brian McGinn	Abuse: Lt. Brian McGinn authorized officers to enter and search § 87(2)(b)	
B. An officer	Abuse: An officer strip-searched § 87(2)(b) and § 87(2)(b)	

Synopsis

In this case, officers from Brooklyn South Narcotics entered and searched § 87(2)(b) and § 87(2)(b)'s apartment. § 87(2)(g) It is also alleged that § 87(2)(b) and § 87(2)(b) another male who was in the apartment, were strip searched by an officer. None of the civilians were able to identify this officer by name or shield number so photos of the entry team were obtained. Numerous attempts were made to contact the civilians so that they may view the photos, but they failed to contact the investigator. § 87(2)(g)

Summary of Complaint

In addition to calling CCRB on 3/22/00, the complainant contacted the Internal Affairs Bureau (log #5780, encl. 3). IAB did not conduct an investigation, as the allegations fell into CCRB's FADO jurisdiction.

Investigator Jonah Goger interviewed all civilians in this case before it was reassigned to Investigator Rios on 8/14/00.

§ 87(2)(b) was interviewed on 4/5/00 (encl. 4a-b). She recalled that on 3/21/00, she was inside her apartment, #§ 87(2)(b) at § 87(2)(b) Brooklyn, when police officers smashed her door and entered the apartment. Inside the apartment with § 87(2)(b) were her roommate § 87(2)(b) her friend § 87(2)(b) an acquaintance § 87(2)(b) and some children. All occupants, with the exception of § 87(2)(b) were taken out the hallway and handcuffed. § 87(2)(b) was permitted to take the children to a neighbor's apartment. The officers thoroughly searched the apartment, but never showed a warrant, according to § 87(2)(b). An officer, who § 87(2)(b) describes as a 6-foot White male in his forties with whitish hair, requested some information about some teens who live in the building. § 87(2)(b) told him that she knows that they sell drugs in the building, but she is not acquainted with them. § 87(2)(b) added that while she was in the hallway, § 87(2)(b) and § 87(2)(b) were taken back into the apartment and strip-searched. No contraband was found and no one was arrested.

§ 87(2)(b) § 87(2)(b)'s roommate, was interviewed by Investigator Goger on 4/5/00 as well (encl. 5a-b). He recalled that he was inside the apartment with § 87(2)(b) and § 87(2)(b) when officers banged the door in. All occupants complied with the officers' orders to get down on the floor, except for § 87(2)(b) since she was pregnant. The officers allowed § 87(2)(b) to take the children who were in the apartment to a neighbor's apartment. § 87(2)(b) and § 87(2)(b) were handcuffed and escorted into the hallway. The officers then searched the apartment. The officers found no contraband in the apartment. An officer then called § 87(2)(b) back into the apartment and strip-searched him, but nothing was found. § 87(2)(b) was called back into the apartment and strip-searched as well. Nothing was found on him either. § 87(2)(b) does not know the identity of the officer who strip-searched him and § 87(2)(b).

Investigator Goger conducted a telephone interview of § 87(2)(b) on 5/9/00 (encl. 6a-b). § 87(2)(b) a friend of § 87(2)(b) recalled that she was at § 87(2)(b) apartment when 7-10 police officers broke the door down and entered the apartment. All occupants were ordered to get on the ground, but since she was pregnant, § 87(2)(b) could not do so. § 87(2)(b)'s jacket and bag were searched and the officers were asking where the drugs were. § 87(2)(b) was asking what drugs they were talking about. § 87(2)(b) was permitted to take the children who were in the apartment to a neighbor's apartment. § 87(2)(b) did so and then returned to § 87(2)(b) apartment. When she returned, § 87(2)(b) and § 87(2)(b) were sitting on the steps in the stairwell as the apartment was being searched. § 87(2)(b) and § 87(2)(b) were called back into the apartment and were strip-searched. § 87(2)(b) stated that she saw through the broken hole in the door, the men being strip-searched. She did not know which officer was conducting the search.

§ 87(2)(b) was the only witness not interviewed in this investigation. None of the civilians interviewed had any contact for § 87(2)(b). In fact, they only knew him as § 87(2)(b) § 87(2)(b) according to them, is a wanderer. He often does favors for § 87(2)(b) and § 87(2)(b). They were asked how they contacted § 87(2)(b) but they said that they do not. At times he would just be hanging out in the hallway and at other times would come by their apartment to see if they needed any errands to be run for a couple of dollars. § 87(2)(b)'s last name § 87(2)(b) was obtained from the NYPD stop and frisk report (encl. 18b). A check of Department of Motor Vehicle's records revealed that there is no § 87(2)(b) with a New York State identification. The Brooklyn White Pages failed to reveal any § 87(2)(b). A check of the Booking Arraignment Disposition System revealed that § 87(2)(b) is not incarcerated. Since § 87(2)(b) could not be located, he was not interviewed.

Results of Investigation

NYPD documents were requested and obtained from Brooklyn South Narcotics. The records revealed that on § 87(2)(b), Det. John Beale of Brooklyn South Narcotics obtained a warrant (encl. 16) to search § 87(2)(b) in Brooklyn. The Search Warrant Execution Plan (encl. 17a-b) was obtained and it noted the police personnel who were on the entry team: Lt. Brian McGinn, Sgt. Michael Balsamo, Det. Jan Hanczyk, Det. Theodore Wallace, Det. Eugene Kenny, and Det. Daniel Vondollen.

Additionally, stop and frisk reports (encl. 18a-b) were filled for all adults searched in the apartment. The reports note that all occupants were frisked and a search was made inside of their pockets.

Det. John Beale was interviewed at CCRB on 8/21/00 (encl. 8a-b). He stated that he obtained a search warrant for two different apartments at § 87(2)(b). One was for apartment #§ 87(2)(b) and the other, #§ 87(2)(b). On 3/21/00, the warrants were executed simultaneously by two different teams. Det. Beale was on the team that entered #§ 87(2)(b). He was the searcher in that apartment, but is not aware who the searcher was in #§ 87(2)(b). Det. Beale does not know if anybody was strip-searched in #§ 87(2)(b) because he was searching #§ 87(2)(b). He did, however, state that the only time one would be strip-searched is if they were arrested.

Sgt. Michael Balsamo, interviewed at CCRB on 9/20/00 (encl. 10a-b), was on the team which entered #§ 87(2)(b). He stated that upon ramming the door and gaining entry, all occupants were secured and handcuffed without incident. They were all frisked and searched. The occupants' pockets, waistbands, socks, sneakers, and any outer garments were searched. They were then brought into the hallway. Sgt. Balsamo believes that Det. Hanczyk was the searcher, while Det. Wallace was the recorder. No contraband was found and no one was arrested. Sgt. Balsamo stated that he did not observe anyone in the apartment being strip-searched. According to Sgt. Balsamo, the only time someone is strip-searched is if they are arrested.

Det. Theodore Wallace, interviewed at CCRB on 9/21/00 (encl. 11a-b), was assigned the ram during this warrant. However, he does not recall this particular warrant, as he has executed them numerous times. Det. Wallace said that he, being assigned the ram, is the officer who rams the door, allowing the team to move in and secure all occupants. On this particular day, he was assigned the ram because the door was a "left-handed swinging door." Since he is left-handed, it is easier for him than for a right-handed officer. He said that it is rare that he is assigned the ram. He assumes that #§ 87(2)(b) had a "left-handed...door" because that is the only case in which he would be given the ram. Yet, he still does not recall the specifics of this warrant. Det. Wallace stated that a strip-search in the apartment would never occur. The only time one would be strip-searched would be if they were arrested. The arrestee would then be brought to the stationhouse and strip-searched there, never in the apartment. He has never strip-searched anyone in an apartment upon executing a search warrant, nor has he observed any other member of service do this.

Det. Jan Hanczyk, interviewed at CCRB on 9/21/00 (encl. 13a-b), was on the team that executed the search warrant at § 87(2)(b). Det. Hanczyk was assigned the bunker; this means that once the door was rammed, he was the first to go in. He stopped all occupants and made sure they were not pointing any weapons and then continued throughout the apartment, making sure that there are no other occupants hiding. When he finished going throughout the apartment, the occupants were frisked, handcuffed, and brought into the hallway. This process took approximately one minute. Det. Hanczyk stated that if his team

arrests someone, they are then strip-searched. However, the strip-search is conducted at the stationhouse. He has never seen occupants of an apartment strip-searched inside of the apartment. On this date, no one was arrested at § 87(2)(b) so no one was strip-searched.

Lt. Brian McGinn, interviewed at CCRB on 10/5/00 (encl. 14a-b), recalled that he supervised the warrant which was executed on the lower floor (§ 87(2)(b) according to the warrant). The door was rammed open and all civilians in the apartment were secured and handcuffed. Lt. McGinn recalled that there were children in the apartment, and they were brought to a neighbor's apartment. Lt. McGinn believes that Det. Hanczyk was the searcher, but does not recall who the recorder was. The apartment was searched, but no contraband was recovered. A "frisk field search" was conducted on all occupants of the apartment, according to Lt. McGinn. This means that a search of their clothing was conducted, including their pockets. Lt. McGinn stated that nobody in the apartment was ever strip-searched. Lt. McGinn stated that under no circumstance would anyone be strip-searched inside of an apartment. If anything, this would be done at the precinct, if someone were arrested. No one has ever been strip-searched during a warrant execution at an apartment in which Lt. McGinn has supervised.

Since no officer to strip-searching or observing a strip-search in the apartment, it was necessary to obtain photographs of the entire narcotics team who entered § 87(2)(b) apartment. Once they were obtained, numerous attempts were made to contact the victim, but all failed. Seven phone calls were made during different times of day, and two letters were sent each, to § 87(2)(b) and § 87(2)(b)

Conclusions and Recommendations

Allegation A: Lt. Brian McGinn authorized officers to enter and search § 87(2)(b)

§ 87(2)(g)

This authorized the officers to enter the apartment "between 6:00 AM and 9:00 PM, without prior notice of purpose or authority." Additionally, the warrant authorized officers to frisk and search all occupants of the apartment, as the justice noted, "You are...commanded...to make an immediate search of...any person present at the location...."

§ 87(2)(g)

Allegation B: An officer strip-searched § 87(2)(b) and § 87(2)(b)

During their interviews, none of the civilians were able to name any of the officers at the scene, nor were they able to provide shield numbers. Therefore, photographic identification procedures were necessary to identify which, if any, officer strip-searched § 87(2)(b) and § 87(2)(b). Numerous attempts were made to contact § 87(2)(b) so that he may identify the officer who strip-searched him. Seven phone calls were made on various days during the day and evening. Additionally, two letters were sent to § 87(2)(b) and § 87(2)(b). All failed to contact the investigator. As stated above, § 87(2)(b) was described as a "wanderer" and none of the civilians has contact information on him. There are no DMV records on him either. § 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: